



July 30, 2021

Sabrina Bailey
Office of Community Relations
Illinois Environmental Protection Agency
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62702

Re: Calumet Dredged Material Disposal Facility; Request for Hybrid (In-Person and Virtual) Hearing on Draft Permit No. 2021-EO-66302

Dear Sabrina Bailey:

Following our Zoom call on July 9, 2021, Friends of the Parks received an email from Illinois Environmental Protection Agency's (IEPA) Environmental Justice Officer Chris Pressnall stating that the publicly noticed 21-day comment period on the above referenced permit application and draft permit would be extended to 30-days; that IEPA would also be holding a "virtual public meeting" on this permit application, which will be preceded by a 30-day notice of that meeting; and that public comments would be accepted through 21 days following the virtual public meeting. (*Attachment 1*)

We appreciate the provision of these additional opportunities for public input on this troubling permit application for the expansion and continued operation of the Confined Disposal Facility ("CDF"). But we have several remaining concerns about the process you have proposed and about the permit application itself.

As stated in our Zoom call, we believe a virtual meeting – online video alone -- will not provide a fair opportunity for full public participation at this time in the Environmental Justice community surrounding this facility, and for other stakeholder and allied organizations such as Alliance of the SouthEast, Environmental Law and Policy Center, Friends of the Parks, Sierra Club IL, Southeast Environmental Task Force, Openlands, People for Community Recovery, and other individuals who are concerned about this permit application, each with varying emphases. Friends of the Parks and Environmental Law and Policy Center especially emphasize the below concerns:

- While there are benefits to providing a virtual option for public meetings, failure to provide an in-person option as well can restrict robust participation because the online platform limits in what ways members of the public can communicate their concerns, ask questions, and engage with public officials and with each other.
- Many community residents might not have access to computers and/or internet. In addition, videoconference platforms and programs can be confusing and difficult to navigate for some people, especially if they have less computer experience.
- A very large percentage of this community is Spanish speaking. In our experience, language translation in virtual public meetings has often been a problem – ranging from technical difficulties to simply being confusing – preventing effective, real-time participation by Spanish-speaking residents.

We hereby reiterate our request that IEPA safely provide an in-person public hearing on this permit application and draft permit at a location in the Southeast Side community where the proposed facility expansion would occur. There should also be an opportunity for video-conferencing attendance by the public—but it should not be the sole method of participation. We would be pleased to work with IEPA, other community members, and interested organizations to find a suitable date and location for an in-person public hearing.

We also have significant concerns with the substance of the permit application and the proposed continuing operation and expansion of this waste disposal facility. These concerns are exacerbated by the fact that the facility is located in an Environmental Justice community and they reinforce the need for meaningful and robust public participation:

- This site is unquestionably located in an Environmental Justice community. As you are aware, the Chicago neighborhoods in close proximity to this facility are among the lowest income and highest demographics of people of color in the State of Illinois. This community is the most environmentally over-burdened community in the City of Chicago, if not the State. For generations, residents have been living with high levels of industrial pollution and the pollution generated by the Corps' management of dredge from the entire Chicago Area Waterways System. Thus, the ongoing permitting of this inherently dirty activity is of great public interest in this Environmental Justice community and should be subject to the highest level of public transparency, scrutiny, and debate.
- The facility is located on a highly controversial and environmentally sensitive site and was originally intended to be closed, capped, and prepared for parkland by 2022. It is directly adjacent to two public parks and immediately upstream from a public beach. Residents who use these parks and this beach for recreation have very real and immediate concerns about the impact of this permit.

- The lakefront location of the facility has also raised concern across the City about releases to Chicago's water supply. This permit allows the accumulation of contaminated dredge on the lakefront, and it would also allow the continued operation of the open air draining and drying facility at a time when the lakefront is experiencing erosion, flooding, and extreme weather events with increasing frequency. See attached newspaper articles raising these concerns. (*Attachment 2*)
- Lake Michigan waters are subject to the Pollution Control Board's most stringent water quality standards. This site also directly fronts the Calumet Harbor Basin and Calumet River which are already degraded and subject to new IEPA and USEPA-approved TMDLs for PCBs and mercury. These toxic chemicals have been found in the dredge sediment processed and stored at the CDF, but the U.S. Army Corps of Engineers, under IEPA-approved permits, has failed to monitor for these toxics in the surface water surrounding the CDF for decades. The Army Corps of Engineers has now proposed not to monitor these toxic chemicals. We urge IEPA to reject the Army Corps' proposal.
- Despite the sensitive location and environmental compliance questions raised by this permit application, the draft permit does not require careful and continuous monitoring of the surrounding Lake Michigan water quality or discharges to the river for PCBs, mercury, or any other toxic pollutants. It would also allow the discontinuation of groundwater monitoring altogether and further limit the sampling parameters in the sediment and discharge. These are substantial permitting issues on which the public has a right to be fully heard.
- In light of recent and more extreme high water levels in Lake Michigan, the probability of contamination due to leaks and spills, or damage to the facility itself, is far more likely than when the facility was first designed. As such, the public should be fully aware of the potential damages this facility could cause.
- There is a genuine question as to whether this is a proper permit application at all. The proposed operation involves a direct discharge to the Calumet River which can only be permitted under a federally enforceable NPDES permit, which would in turn require the highest level of public participation. The public has a right to hear from IEPA why it did not require the Army Corps to obtain an NPDES permit for the CDF in the past, and why it is once again exempting the Corps from the NPDES permit requirement.
- The Corps' application proposing the construction and operation of a dredge "landfill" on the shore of Lake Michigan should also be subject to an IEPA solid waste management permit and the full range of the Illinois Pollution Control's solid waste management regulations. In addition, since this application involves a

dredge management and drying operation with the potential for significant air emissions, it should be subject to the same air pollution control permitting and requirements as any other waste, material processing, or management operation in Illinois. Again, the public has a right to know if these permits will be required and, if not, why not.

- Finally, this permit application should be subject to the same level of public scrutiny – including a full in-person public hearing – that IEPA has said it would apply to the Army Corps’ application for the vertical expansion of the existing CDF. This permit is not proposing merely to continue the Army Corps’ past dredging and dredge management and disposal operations. Rather, it is proposing to conduct a manufacturing operation on the CDF property that is designed to produce dried sediment as a construction material for the construction of the walls and berms of the Corps’ proposed vertical expansion.
- In its April 23, 2021 letter to IEPA’s Dari LeCrone, Colonel Culberson stated that “Chicago District plans to continue dredging this year to clear the navigation channel and to obtain sediment to start the vertical expansion process.” (*Attachment 3*) This initial “interim” permit is really a bifurcated first step down the road toward the construction of the Army Corps’ planned expanded facility that has not yet been permitted by IEPA. As such, this is an improper and premature application for an important element of the proposed facility expansion which should not be allowed to escape the full public scrutiny that IEPA has said it would require for the expansion permit. If this application is not simply deferred for consideration at the same time that IEPA considers the overall vertical expansion application, it must at least be properly permitted under an NPDES permit process, and subject to the same in-person public hearing process that the overall permit will receive.

We appreciate your personal attention to this matter and willingness to expand the public participation process. We hope you will agree with us that an in-person hearing in the affected community is not only desirable, but necessary in this situation. We look forward to your response to this request and to our working with IEPA to ensure an open and accessible public process on this permit application.

Respectfully,



Juanita Irizarry
Executive Director
Friends of the Parks



Howard Learner
Executive Director
Environmental Law & Policy Center

Cc: Sanjay Sofat, Chief of Bureau of Water, IEPA
Brad Frost, Community Relations Manager, IEPA
Chris Pressnall, Environmental Justice Officer, IEPA
Sylvia Jones, Board Chair, Friends of the Parks
Fred Bates, Advocacy Committee Chair, Friends of the Parks
Lauren Moltz, Vice Chair & Advocacy Committee Member, Friends of the Parks
Maria Saldaña, Advocacy Committee Member, Friends of the Parks
Patricia Sharkey, Environmental Law Counsel, P.C.